IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.O.C.P. No.100 of 2006
Date of Decision:- 06.11.2006

Kuldip Singh ....Petitioner

through
Mr.S.P.Laler, Advocate.

vs.

Sh.K.K.Khandelwal ....Respondent

through
Mr.R.D.Sharma, DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The petitioner filed C.W.P.No.9898 of 2005. In the aforesaid writ petition, a direction was sought for the release of his retiral benefits including gratuity and leave encashment etc. The above stated writ petition was disposed of by this Court on August 9, 2005 when a statement was made on behalf of the official respondents that the petitioner's gratuity has already been released and papers with regard to Provident Fund and Leave Encashment have been referred to the authorities after completing the same. This Court accordingly directed that the entire retiral benefits be released to the petitioner within a period of one month.

Alleging non-compliance of the above-stated order, this contempt petition has been filed.

In response to the show cause notice, the first respondent has filed an affidavit, along with which he has appended a copy of the speaking order dated 8.8.2006 vide which the petitioner's claim regarding leave encashment has been adjudicated. It appears that the primary dispute

between the petitioner and the authorities is as to whether he is entitled for leave encashment for 213 days or 168 days only. According to the first respondent, the petitioner is entitled to leave encashment for 168 days only whereas he has already been paid leave encashment benefit for 170 days. The petitioner, however, disputes the manner in which his leave account has been settled. According to him, in the service book there is an entry that he has earned 230 days leave and the same is correctly calculated.

After hearing learned counsel for the parties and having regard to the above-stated disputed question of fact and keeping in view the fact that the respondents have already acted upon in terms of the statement made before this Court, I do not deem it appropriate to continue with these proceedings, which are accordingly dropped and petition is disposed of with liberty to the petitioner either to make representation to the Competent Authority within one month from today and if any such representation is made by him, respondent No.1 shall get the same re-examined in order to find out as to whether or not, any mistake has been committed while settling the leave account of the petitioner. The necessary orders to this effect shall be passed within three weeks from the date of receipt of the said representation. However, if the petitioner so desires, he will also be at liberty to impugn the order dated 8.8.2006 which respondent No.1 has appended with his affidavit, before an appropriate forum.

Disposed of.

Rule discharged.

November 06, 2006 **(SURYA KANT)**
poonam **JUDGE**